



March 14, 2018

Secretary Marlene Dortch
Federal Communications Commission
Attn.: Chairman Pai and Members of the Commission
445 12th Street SW
Washington, DC 20554

RE: Pueblo of Laguna's Opposition to Draft Report and Order (WT 17-79)

Dear Secretary Dortch:

The Pueblo of Laguna writes to oppose the draft Report and Order released on March 1, 2018 that purports to narrow the obligations of the Federal Communications Commission (FCC) under the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) and restricts tribal rights secured by those laws. The draft order's approach will be detrimental to tribal governments, tribal cultural and historic resources and do very little to encourage deployment of wireless service to areas, like ours, that need it most.

Fifteen years ago, the FCC stated that it was impractical for it to consult on thousands of existing, new and proposed cell sites, despite its obligation to do so. In response, Indian Country endorsed the Tower Construction Notification System as an elegant solution that facilitated the telecommunications industry working directly with tribal nations to address issues of concern so that it would be unnecessary in nearly all cases for the FCC to engage in consultation. The alternative, which will be the outcome if the current order is approved, is that tribal nations will demand direct consultations with the FCC on potentially hundreds of larger tower sites, a far slower process than the tribal-industry process.

The Commission has a trust responsibility to tribal nations, not to the wireless industry. The draft Report and Order does not reflect this trust responsibility and diminishes the Pueblo of Laguna's ability to protect our cultural and historic properties.

The draft Report and Order:

- (1) Concludes that small wireless facilities do not qualify as “undertakings” or “major federal actions”, thereby circumventing the protections of NHPA and NEPA;
- (2) Eliminates tribal fees for initial historic preservation assessments (which often number in the hundreds per month) by tribal governments, encouraging industry to exclusively rely on its own consultants whose understanding of Native culture is limited, rather than access the unique expertise of tribal nations with regard to impacts on their own cultural areas; and
- (3) Mischaracterizes the extent of formal consultation carried out prior to the release of the draft Report and Order by including listening sessions, briefings and other meetings that are not true tribal consultations.

Rolling back protections for tribal cultural and historic properties will have grave consequences for the Pueblo of Laguna.

Our Pueblo relies upon our Tribal Historic Preservation Office to be involved in requests from communications companies desiring to locate facilities on our lands. Our THPO is our best resource to identify areas of cultural and historic significance to our Pueblo. Additionally, through our network of THPOs with other Pueblos and Tribes, we receive notifications for areas which may be of cultural significance to us and those Pueblos and Tribes and we are able to assist other Pueblos and Tribes through this process.

Once tribal cultural and historic properties are damaged, this damage is often irreversible. Therefore, like other tribes throughout the country, we will have no recourse if the deployment of wireless technology results in the destruction of our tribal cultural and historic properties. Accordingly, we ask that all Commissioners vote against adopting this draft Report and Order.

Sincerely,

A handwritten signature in black ink that reads "Virgil Siow". The signature is written in a cursive, flowing style.

Virgil A. Siow
Governor

cc: Senator Udall
Senator Hoven
Marla Givens, NCAI